

## Message Text

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ACTION EB-08

INFO OCT-01 EA-10 ISO-00 CAB-02 CIAE-00 COME-00  
DODE-00 DOTE-00 INR-10 NSAE-00 FAA-00 L-03 SS-15  
NSC-05 /054 W

-----013402 302112Z /64

R 300040Z AUG 78

FM AMEMBASSY CANBERRA

TO SECSTATE WASHDC 4158

C O N F I D E N T I A L CANBERRA 6925

EO 11652: GDS

TAGS: EAIR AS

SUBJECT: CIVAIR: PAN AM BUDGET FARE

REF: A. STATE 218178, B. CANBERRA 6385, C. STATE 191474

1. SUMMARY: GOA HAS RESPONDED TO AIDE-MEMOIRE OF REF C. IT REGARDS ITS LETTER OF JULY 19, 1978, AS A NOTICE OF DISSATISFACTION UNDER SECTION IV OF ANNEX TO AIR TRANSPORT AGREEMENT. IN EMBASSY JUDGMENT, CHANCES OF GOA DENOUNCING AIR AGREEMENT OVER FARE ISSUE ARE NO LESS THAN OVER CONTINENTAL ENTRY. ACCORDINGLY, EMBASSY WOULD RECOMMEND THAT QUESTION OF WHETHER GOA LETTER IS PROCEDURALLY AND SUBSTANTIVELY DEFICIENT TO SET ASIDE, AND THAT WE FOCUS ON HOLDING OF SUBSTANTIVE DISCUSSIONS. END SUMMARY.

2. TEXT OF LETTER OF AUGUST 22, A1978, FROM KEITH TOAKLEY, ASSISTANT SECRETARY, INTERNATIONAL POLICY DIVISION, DEPARTMENT OF TRANSPORT, READS AS FOLLOWS:  
QUOTE I REFER TO THE UNITED STATES AIDE-MEMOIRE, DATED 31, JULY 1978.  
CONCERNING THE FILING MADE RECENTLY BY PAN AM OF ITS BUDGET FARE.  
THIS FILING, RECEIVED ON 5 JULY 1978 FROM PAN AM, WAS SUBMITTED PURSUANT TO AIR NAVIGATION REGULATION 106A.  
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AFTER CAREFUL EXAMINATION OF THIS FILING WHICH INCLUDED DISCUSSIONS WITH REPRESENTATIVES FROM PAN AM, IT WAS REJECTED. PAN AM WAS NOTIFIED OF THIS DECISION IN THE FOLLOWING TERMS:

"I REFER TO YOUR FILING OF 5 JULY 1978 UNDER AIR NAVIGATION REGULATION 106A FOR A VARIATION OF YOUR APPROVED TARIFF OF CHARGES. THE FILING SEEKS APPROVAL TO APPLY

"BUDGET FARES" BETWEEN AUSTRALIA AND THE UNITED STATES. I HAVE CONCLUDED THAT THERE ARE SEVERAL MAJOR ASPECTS OF THE PROPOSED VARIATION WHICH ARE CONSIDERED NOT TO BE IN THE PUBLIC INTEREST. ACCORDINGLY, I WISH TO ADVISE THAT I HAVE DECIDED, PURSUANT TO ANR106A, TO REJECT THE VARIATION TO YOUR TARIFF OF CHARGES."

THE AUSTRALIAN AERONAUTICAL AUTHORITIES TOOK THE VIEW THAT THE PAN AM FILING COULD ALSO BE REGARDED AS A FILING OF A NEW RATE FOR THE PURPOSES OF PARAGRAPH (D), SECTION IV OF THE ANNEX TO THE AUSTRALIA-UNITED STATES AIR TRANSPORT AGREEMENT OF 3 DECEMBER 1946. A DECISION HAVING BEEN TAKEN TO REJECT THE FILING BY PAN AM UNDER ANR106A, THE AUSTRALIAN AUTHORITIES ARRANGED FOR A LETTER TO BE LODGED WITH BOTH THE UNITED STATES DEPARTMENT OF STATE AND THE AERONAUTICAL AUTHORITIES EXPRESSING DISSATISFACTION WITH THE RATE FILING BY PAN AM.

THIS LETTER, DELIVERED ON 19 JULY 1978, WAS INTENDED TO CONSTITUTE A NOTIFICATION OF DISSATISFACTION FOR PURPOSES OF PARAGRAPH (G) SECTION IV OF THE ANNEX TO THE AIR TRANSPORT AGREEMENT. IN THE VIEW OF THE AUSTRALIAN AERONAUTICAL AUTHORITIES PARAGRAPH (G) OF SECTION IV OF THE ANNEX, RATHER THAN PARAGRAPH F, IS APPLICABLE.

THE AUSTRALIAN AERONAUTICAL AUTHORITIES CONFIRM THAT IT IS THE CLEAR OBJECTIVE OF THE AUSTRALIAN GOVERNMENT TO SEEK THE INTRODUCTION OF FARES ON AUSTRALIA-US SERVICES WHICH MORE ADEQUATELY SATISFY THE REQUIREMENTS OF THE PUBLIC

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FOR LOW COST TRAVEL ON THESE SERVICES. UNQTE.

3. EMBASSY ASSUMES THAT WASHINGTON WILL WISH IT TO RESPOND TO GOA ASSERTION THAT APPLICABLE PARAGRAPH OF ANNEX IS (G) RATHER THAN (FA). IF SO, PLEASE PROVIDE PERTINENT CITATIONS AS TO WHEN POWER WAS CONFERRED BY LAW UPON U.S. AERONAUTICAL AUTHORITIES TO FIX RATES. HOWEVER, EMBASSY WOULD AT SAME TIME ADVISE THAT WE NOT PURSUE FURTHER THE FORM OF THE AUSTRALIAN NOTIFICATION OF DISSATISFACTION, BUT THAT INSTEAD WE SEEK SUBSTANTIVE DISCUSSIONS OF FARE QUESTION. IDEALLY, THESE WOULD HAVE TAKEN PLACE IN CONTEXT OF POSTPONED AUGUST 28 NEGOTIATIONS, AND THIS WOULD APPEAR TO BE THE PREFERABLE OCCASION IF TALKS CAN BE CONVENED IN RELATIVELY NEAR FUTURE.

4. FAILING THIS, EMBASSY RECOMMENDS THAT U.S. DISCUSS, EITHER WITH AUSTRALIAN EMBASSY IN WASHINGTON OR WITH DEPARTMENT OF TRANSPORT IN CANBERRA, RATIONALE FOR AUSTRALIAN TURN-DOWN IN RELATION TO SECTION IV WORDING WHICH SEEMS TO PROVIDE FOR TURNDOWN ONLY IF RATE IS "UNECONOMIC" OR "UNFAIR."

5. SINCE AUSTRALIANS ARE OBVIOUSLY IN A WEAK POSITION  
IN SEEKING TO PORTRAY PAN AM RATE PROPOSAL AS "UNECONOMIC"  
OR "UNFAIR," EMBASSY BELIEVES WE SHOULD KEEP THE PRESSURE  
ON, BUT BY FOCUSING POSITIVELY, ON PROVISION CONTAINED  
IN BOTH PARAGRAPHS (G) AND (H) THAT "THE CONTRACTING PARTIES  
SHALL ENDEAVOR TO REACH AGREEMENT ON THE APPROPRIATE RATE."  
AUSTRALIANS ARE AS LIKELY TO DENOUNCE AIR AGREEMENT OVER  
FARE ISSUE AS OVER CONTINENTAL ENTRY, AND INSISTING ON A  
MORE SATISFACTORY WRITTEN STATEMENT WOULD BE LIKELY MERELY  
TO GET AUSTRALIAN BACKS UP AND ENHANCE THE PROSPECTS FOR  
A DENUNCIATION OF AGREEMENT. BUT WITH GOA HAVING SLOW  
GOING IN ACHIEVING LOW FARES TO PRESENT TO PUBLIC, BY  
"ENDEAVORING TO REACH AGREEMENT ON APPROPRIATE RATE," WE  
WILL PLACE GOA IN POTENTIALLY AWKWARD POSITION WITH  
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AUSTRALIAN PUBLIC IF IT CANNOT PLAUSIBLY JUSTIFY ITS  
ACTION.  
ALSTON

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NNN

## Message Attributes

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**Capture Date:** 01 jan 1994  
**Channel Indicators:** n/a  
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**Draft Date:** 30 aug 1978  
**Decaption Date:** 01 jan 1960  
**Decaption Note:**  
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**Disposition Approved on Date:**  
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**Disposition Date:** 20 Mar 2014  
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